

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1190

Introduced by Assembly Members Horton and Huffman

February 23, 2007

An act to ~~add Sections 8651.1, 8651.2, 8651.3, 60050.2, 60050.3, and 60050.4 to amend Sections 7304, 7313, 7324, 7326, 7332, 7338, 7339, 7363, 7373, 7401, 7710, 60003, 60010, 60022, 60033, 60052, 60064, 60100, and 60350 of, to amend, repeal, and add Sections 8102, 8129, 60115, 60501, 60502, and 60523 of, to add Sections 7346, 7347, 7348, 7349, 7352, 7353, 7354, 7360.4, 7360.5, 7369.1, 7374, 7475, 7652.9, 7655.5, 60003.1, 60004.1, 60011.1, 60022.1, 60022.2, 60049.2, 60049.5, 60049.6, 60049.7, 60050.5, 60050.6, 60053.1, 60065, 60136, 60203, and 60207.5 to, to add and repeal Sections 7351, 7360.1, 7360.2, 7360.3, 60049.4, 60050.2, 60050.3, and 60050.4 of, and to repeal Sections 7318, 8651.8, and 8657 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1190, as amended, Horton. Taxation: fuel tax: exemptions and credits.

The ~~Use~~ *Motor Vehicle* Fuel Tax Law and the Diesel Fuel Tax Law impose a tax of \$0.18 per gallon of fuel subject to tax under those laws, and require, if the federal fuel tax is reduced below the specified rate and federal financial allocations to this state are reduced or eliminated, that the tax rate be increased so that the combined state and federal tax rate per gallon equals \$0.33.

This bill would, under both laws, exempt Category 1 *low-carbon* fuel, as defined, from the taxes imposed by those laws, would decrease the

rate of taxes imposed by those laws to \$0.09 per gallon for Category 2 *reduced-carbon* fuel, and would create a high-carbon fuel tax for Category 3 *high-carbon* fuel, as defined. ~~This bill would correspondingly decrease the combined state and federal tax rate limits, as applicable to each type of fuel.~~ This bill would authorize the State Board of Equalization to adjust, ~~as necessary~~ *annually*, the rate of high-carbon fuel tax, *according to a specified formula*, to ensure that the total amount of revenues derived from that tax rate, as estimated on the basis of the revenues derived from the tax rate imposed on Category 3 *high-carbon* fuel during the immediately preceding *fiscal* year, does not exceed the amount of revenue loss during the same year attributable to the exemptions allowed under ~~both laws~~ *the Motor Vehicle Fuel Tax Law or the Diesel Fuel Tax Law*, respectively, for Category 1 *low-carbon* and 2 ~~fuel~~ *reduced-carbon* fuels.

The Use Fuel Tax Law imposes an excise tax upon each gallon of fuel, subject to tax under that law, including alcohol fuels.

This bill would delete the provisions of that law relating to the imposition of the excise tax on ethanol and methanol, as specified, would revise the definition of “motor vehicle fuel,” under the Motor Vehicle Tax Law, to include ethanol, methanol, and butanol that has been produced from biomass feedstocks, as specified, within the meaning of “motor vehicle fuel,” and would make corresponding changes to various administrative and definitional provisions of the Motor Vehicle Tax Law.

This bill would also revise the definition of “diesel fuel” under the Diesel Fuel Tax Law to include petroleum-based diesel fuel, renewable diesel fuel, or their blends, and to exclude alcohol, as provided, and would make corresponding changes to various provisions relating to the administration of that law.

This bill would also require specified persons, under the Motor Vehicle Tax Law and the Diesel Fuel Tax Law, to file a return or report, as provided, electronically, as authorized by the board, and would impose a penalty of \$1,000 on a person required to file a return or report if that person fails to make a return or report before the prescribed date or to include all of the necessary information, or if the person files the return or report in an unauthorized format, misclassifies fuels, or knowingly includes in that report or return incorrect information.

This bill would also require the State Board of Equalization to provide written notification to the Legislature, the Director of Finance, and the

Legislative Counsel regarding the tax incentives for Category 1 and 2 fuels, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Greenhouse gas emissions pose a serious threat to the health*
4 *of California's citizens and the quality of the environment, and*
5 *California's transportation sector is the leading source of*
6 *greenhouse gas emissions in the state, contributing over 40 percent*
7 *of the state's annual greenhouse gas emissions.*

8 *(b) The California Global Warming Solutions Act of 2006*
9 *(Division 25.5 (commencing with Section 38500) of the Health*
10 *and Safety Code) requires California to reduce statewide*
11 *greenhouse gas emissions to 1990 levels by 2020.*

12 *(c) California is almost entirely dependent on one energy source*
13 *for its transportation economy, relying on petroleum-based fuels*
14 *to meet 96 percent of the state's transportation needs.*

15 *(d) California's dependence on a single type of transportation*
16 *fuel, the price of which is highly volatile, imperils our economic*
17 *security, endangers our jobs, and jeopardizes our industries.*
18 *Diversification of the sources of transportation fuel will help*
19 *protect our jobs and economy from the consequences of oil price*
20 *shocks. Alternative fuels can provide economic development*
21 *opportunities and reduce emissions of greenhouse gases, criteria*
22 *pollutants, and toxic air contaminants.*

23 *(e) This act will provide various tax incentives for alternative*
24 *types of fuel to increase the use of alternative transportation fuels*
25 *and to advance the state's leadership in clean technologies and*
26 *ensure an affordable, reliable fuel supply.*

27 *SEC. 2. Section 7304 of the Revenue and Taxation Code is*
28 *amended to read:*

29 7304. "Alcohol"—~~includes~~ *means ethanol—and, methanol, or*
30 *butanol that has been produced from biomass feedstocks and has*
31 *been prepared and certified for use in motor vehicles.*

1 *SEC. 3. Section 7313 of the Revenue and Taxation Code is*
2 *amended to read:*

3 7313. “Finished gasoline” means all products ~~(including~~
4 ~~gasohol)~~ that are commonly known or sold as gasoline, *including*
5 *the finished California specification gasoline base blending*
6 *component (CARBOB).*

7 *SEC. 4. Section 7318 of the Revenue and Taxation Code is*
8 *repealed.*

9 ~~7318. “Gasohol” means all blends of gasoline, and alcohol~~
10 ~~containing more than 15 percent gasoline.~~

11 *SEC. 5. Section 7324 of the Revenue and Taxation Code is*
12 *amended to read:*

13 7324. “Licensed supplier” ~~includes means any enterer, position~~
14 ~~holder, refiner, terminal operator, or throughput supplier that~~
15 ~~is licensed as a supplier pursuant to Section 7451.~~

16 *SEC. 6. Section 7326 of the Revenue and Taxation Code is*
17 *amended to read:*

18 7326. “Motor vehicle fuel” means gasoline ~~and~~, aviation
19 gasoline, *and alcohol*. It does not include aircraft jet fuel, diesel
20 fuel, kerosene, liquefied petroleum gas, natural gas in liquid or
21 gaseous form, ~~alcohol~~, or racing fuel.

22 *SEC. 7. Section 7332 of the Revenue and Taxation Code is*
23 *amended to read:*

24 7332. “Position holder” includes any person that holds the
25 inventory position in the motor vehicle fuel, as reflected on the
26 records of the terminal operator. A person holds the inventory
27 position in motor vehicle fuel when that person has a contractual
28 agreement with the terminal operator for the use of storage facilities
29 and terminaling services at a terminal with respect to the motor
30 vehicle fuel. “Position holder” includes a terminal operator that
31 owns motor vehicle fuel in its terminal. *“Position holder” includes*
32 *a person who holds the inventory position in an alcohol fuel*
33 *storage facility.*

34 *SEC. 8. Section 7338 of the Revenue and Taxation Code is*
35 *amended to read:*

36 7338. “Supplier” includes any person who is any of the
37 following:

- 38 (a) Blender, as defined in Section 7308.
39 (b) Enterer, as defined in Section 7311.
40 (c) Position holder, as defined in Section 7332.

1 (d) Refiner, as defined in Section 7334.

2 (e) Terminal operator, as defined in Section 7340.

3 (f) Throughputter, as defined in Section 7341.

4 (g) *Alcohol fuel producer, as defined in Section 7346.*

5 SEC. 9. *Section 7339 of the Revenue and Taxation Code is*
6 *amended to read:*

7 7339. “Terminal” means a motor vehicle fuel storage and
8 distribution facility that is supplied by pipeline or vessel, and from
9 which motor vehicle fuel may be removed at a rack. “Terminal”
10 *includes a storage facility at a refinery or alcohol fuel production*
11 *facility dedicated to storing motor vehicle fuel if the fuel may be*
12 *removed at a rack. For purposes of this part, “terminal” also*
13 *includes an alcohol fuel storage facility as defined in Section 7348.*

14 SEC. 10. *Section 7346 is added to the Revenue and Taxation*
15 *Code, to read:*

16 7346. “Alcohol fuel producer” means a person that produces
17 alcohol in this state at an alcohol fuel production facility.

18 SEC. 11. *Section 7347 is added to the Revenue and Taxation*
19 *Code, to read:*

20 7347. “Alcohol fuel production facility” means a facility, other
21 than a refinery, in which alcohol is produced, or a facility in which
22 alcohol is produced and blended with gasoline.

23 SEC. 12. *Section 7348 is added to the Revenue and Taxation*
24 *Code, to read:*

25 7348. “Alcohol fuel storage facility” means a storage facility,
26 other than a terminal, that is supplied by railcar, pipeline, or vessel
27 and from which alcohol may be removed at a rack.

28 SEC. 13. *Section 7349 is added to the Revenue and Taxation*
29 *Code, to read:*

30 7349. (a) “Lifecycle Greenhouse Gas Emission” (LGGE)
31 means the lifecycle greenhouse gas emissions of finished gasoline
32 produced from petroleum, as identified and listed by the California
33 Air Resources Board.

34 (b) The California Air Resources Board shall identify and list
35 the LGGE for all fuel subject to tax under Section 7362, 7363, or
36 7364, and shall notify the board when the changes are made to
37 that list.

38 SEC. 14. *Section 7351 is added to the Revenue and Taxation*
39 *Code, to read:*

1 7351. (a) “Clean Fuel Incentive Balance” means the net
2 difference between the amount of revenue lost due to the tax rate
3 reductions allowed under Sections 7360.1 and 7360.2 for Category
4 1 and 2 fuels and the incremental revenue realized as a result of
5 the rate applied to Category 3 fuel pursuant to Section 7360.3.

6 (b) This section shall be repealed on January 1 of the fiscal
7 year following the fiscal year in which, as determined by the board,
8 the aggregate number of gallons of Category 1 and Category 2
9 fuels for which the tax incentives have been claimed pursuant to
10 Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or
11 exceeds one billion gallons.

12 SEC. 15. Section 7352 is added to the Revenue and Taxation
13 Code, to read:

14 7352. “Category 1 fuel” means low-carbon motor vehicle fuel,
15 or a finished component thereof, that creates 40 percent or less of
16 the LGGE, as identified and listed by the California Air Resources
17 Board.

18 SEC. 16. Section 7353 is added to the Revenue and Taxation
19 Code, to read:

20 7353. “Category 2 fuel” means reduced-carbon motor vehicle
21 fuel, or a finished component thereof, that creates over 40 percent
22 but less than 75 percent of the LGGE, as identified and listed by
23 the California Air Resources Board.

24 SEC. 17. Section 7354 is added to the Revenue and Taxation
25 Code, to read:

26 7354. “Category 3 fuel” means either of the following:

27 (a) High-carbon motor vehicle fuel, or a finished component
28 thereof, that is neither Category 1 fuel, as defined in Section 7352,
29 nor Category 2 fuel, as defined in Section 7353.

30 (b) Any motor vehicle fuel, or a finished component thereof,
31 that is not labeled.

32 SEC. 18. Section 7360.1 is added to the Revenue and Taxation
33 Code, to read:

34 7360.1. (a) Notwithstanding Section 7360, on and after the
35 effective date specified in Section 7360.5, a tax rate of zero cents
36 (\$0.00) shall be imposed on Category 1 fuel that is subject to the
37 tax under Section 7362, 7363, or 7364.

38 (b) This section shall be repealed on January 1 of the fiscal
39 year following the fiscal year in which, as determined by the board,
40 the aggregate number of gallons of Category 1 and Category 2

1 *fuels for which the tax incentives have been claimed pursuant to*
2 *Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or*
3 *exceeds one billion gallons.*

4 *SEC. 19. Section 7360.2 is added to the Revenue and Taxation*
5 *Code, to read:*

6 *7360.2. (a) Notwithstanding Section 7360, on and after the*
7 *effective date specified in Section 7360.5, a tax rate of one-half*
8 *the rate prescribed by Section 7360 shall be imposed on Category*
9 *2 fuel that is subject to the tax under Section 7362, 7363, or 7364,*
10 *unless the Category 2 fuel is an alcohol fuel of not more than 15*
11 *percent gasoline. For alcohol fuels of not more than 15 percent*
12 *gasoline, a tax rate of one-quarter of the rate prescribed by Section*
13 *7360 shall be imposed.*

14 *(b) This section shall be repealed on January 1 of the fiscal*
15 *year following the fiscal year in which, as determined by the board,*
16 *the aggregate number of gallons of Category 1 and Category 2*
17 *fuels for which the tax incentives have been claimed pursuant to*
18 *Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or*
19 *exceeds one billion gallons.*

20 *SEC. 20. Section 7360.3 is added to the Revenue and Taxation*
21 *Code, to read:*

22 *7360.3. (a) Notwithstanding Section 7360, an additional tax,*
23 *at the rate described in subdivision (b), shall be imposed on*
24 *Category 3 fuel that is subject to the tax under Section 7362, 7363,*
25 *or 7364.*

26 *(b) (1) On and after the effective date specified in Section*
27 *7360.5, the rate of tax imposed on Category 3 fuel pursuant to*
28 *subdivision (a) shall be the amount specified in Section 7360 plus*
29 *one hundredth of one cent (\$.1801) per each gallon of that fuel,*
30 *unless the Category 3 fuel is an alcohol fuel of not more than 15*
31 *percent gasoline. The tax rate imposed on Category 3 alcohol fuels*
32 *of not more than 15 percent gasoline shall be one-half of the rate*
33 *prescribed by Section 7360 plus one hundredth of one cent*
34 *(\$.0901) per each gallon of fuel. The tax rate shall remain in*
35 *effect until adjusted by the board, as specified in paragraph (2).*

36 *(2) On and after January 1 of the calendar year following the*
37 *date specified in Section 7360.5 and annually thereafter, the board*
38 *shall determine if the tax rate set forth in paragraph (1) should be*
39 *decreased or increased, if necessary, so that the total amount of*

1 *revenues derived from that tax rate is equal to the Clean Fuel*
2 *Incentive Balance for the immediately preceding fiscal year.*

3 *(c) In order to determine the tax rate, as described in paragraph*
4 *(2) of subdivision (b), the board shall do all of the following:*

5 *(1) Ascertain the reported taxable gallons of Category 1,*
6 *Category 2, and Category 3 fuels for the previous fiscal year.*

7 *(2) Calculate the amount of the Clean Fuel Incentive Balance,*
8 *as specified in subdivision (a) of Section 7351.*

9 *(4) Determine if the tax rate described in subdivision (b) should*
10 *be decreased or increased, or remain the same.*

11 *(5) If appropriate, divide the Clean Fuel Incentive Balance*
12 *amount by the number of taxable Category 3 gallons of fuel*
13 *reported in the previous fiscal year and round that number to one*
14 *hundredth of one cent (\$0.01), whichever is higher.*

15 *(d) This section shall be repealed on January 1 of the fiscal*
16 *year following the fiscal year in which, as determined by the board,*
17 *the aggregate number of gallons of Category 1 and Category 2*
18 *fuels for which the tax incentives have been claimed pursuant to*
19 *Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or*
20 *exceeds one billion gallons.*

21 *SEC. 21. Section 7360.4 is added to the Revenue and Taxation*
22 *Code, to read:*

23 *7360.4. The California Air Resources Board shall publish and*
24 *maintain a list of fuels that qualify as Category 1, Category 2, and*
25 *Category 3 fuels, as provided in Sections 7352, 7353, and 7354,*
26 *respectively.*

27 *SEC. 22. Section 7360.5 is added to the Revenue and Taxation*
28 *Code, to read:*

29 *7360.5. The tax rates for Category 1, Category 2, and Category*
30 *3 fuels shall not be effective until January 1 of the calendar year,*
31 *but not sooner than six months, following approval by the Office*
32 *of Administrative Law of the California Air Resources Board's*
33 *regulations relating to the LGGE and receipt by the board of the*
34 *LGGE list from the California Air Resources Board.*

35 *SEC. 23. Section 7363 of the Revenue and Taxation Code is*
36 *amended to read:*

37 *7363. The tax specified in Section 7360 is also imposed on all*
38 *of the following:*

39 *(a) The removal of motor vehicle fuel in this state from any*
40 *refinery if either of the following applies:*

1 (1) The removal is by bulk transfer and the refiner or the owner
2 of the motor vehicle fuel immediately before the removal is not a
3 licensed supplier.

4 (2) The removal is at the refinery rack.

5 (b) The entry of motor vehicle fuel into this state for sale,
6 consumption, use, or warehousing if either of the following applies:

7 (1) The entry is by bulk transfer and the enterer is not a licensed
8 supplier.

9 (2) The entry is not by bulk transfer.

10 (c) The removal or sale of motor vehicle fuel in this state to an
11 unlicensed person unless there was a prior taxable removal, entry,
12 or sale of the motor vehicle fuel.

13 (d) The removal or sale of blended motor vehicle fuel in this
14 state by the blender thereof. The number of gallons of blended
15 motor vehicle fuel subject to tax is the difference between the total
16 number of gallons of blended motor vehicle fuel removed or sold
17 and the number of gallons of previously taxed motor vehicle fuel
18 used to produce the blended motor vehicle fuel.

19 (e) *The removal or sale of alcohol or blends of gasoline and*
20 *alcohol in this state from an alcohol fuel production facility.*

21 *SEC. 24. Section 7369.1 is added to the Revenue and Taxation*
22 *Code, to read:*

23 *7369.1. Every alcohol fuel producer shall pay the tax on the*
24 *removal or sale of alcohol or blends of gasoline and alcohol from*
25 *an alcohol fuel production facility as provided in subdivision (e)*
26 *of Section 7363.*

27 *SEC. 25. Section 7373 of the Revenue and Taxation Code is*
28 *amended to read:*

29 7373. (a) For the purpose of the proper administration of this
30 part and to prevent evasion of the tax, unless the contrary is
31 established, it shall be presumed that all motor vehicle fuel received
32 at a terminal in this state, imported into this state, or refined and
33 placed into storage for removal at a refinery *or alcohol fuel*
34 *production facility* in this state or blended motor vehicle fuel
35 blended or converted in this state and no longer in the possession
36 of the supplier has been removed or sold by the supplier.

37 (b) The presumption shall not apply if the supplier proves to
38 the satisfaction of the board that both:

39 (1) The supplier has exercised ordinary care in entrusting control
40 or possession of the motor vehicle fuel to another person.

(2) The person to whom the supplier has entrusted the control or possession of the motor vehicle fuel as bailee, consignee, employee, or agent, caused a removal or sale by the act of converting to that person's own use the motor vehicle fuel so entrusted to that person by the supplier.

(c) If the supplier proves to the satisfaction of the board, the existence of both of the circumstances in paragraphs (1) and (2) of subdivision (b), then the person who converted the motor vehicle fuel to his or her own use, as well as any other person receiving that motor vehicle fuel with the knowledge that it was so converted, shall be liable for payment of the tax imposed upon that removal or sale, and all of those persons shall be considered as suppliers for the purpose of Chapter 5 (commencing with Section 7651) or Chapter 6 (commencing with Section 7851) of this part.

SEC. 26. Section 7374 is added to the Revenue and Taxation Code, to read:

7374. (a) For the purpose of the proper administration of this part and to prevent evasion of the tax, it shall be presumed, unless the contrary is established, that all motor vehicle fuel received at a terminal in this state, imported into this state, or refined and placed into storage for removal at a refinery or alcohol fuel production facility in this state, or blended motor vehicle fuel blended or converted in this state, is Category 3 fuel.

(b) The presumption shall not apply if the supplier proves to the satisfaction of the board that the motor vehicle fuel, or finished component thereof, has been identified as a Category 1 or Category 2 fuel by the board pursuant to the fuel's LGGE, as identified and listed by the California Air Resources Board and has been properly labeled as provided for by the California Air Resources Board.

SEC. 27. Section 7401 of the Revenue and Taxation Code is amended to read:

7401. (a) The provisions of this part requiring the payment of motor vehicle fuel taxes do not apply to any of the following:

(1) Any entry or removal from a terminal or refinery of motor vehicle fuel transferred in bulk to a refinery or terminal if the persons involved (including the terminal operator) are licensed suppliers.

(2) The removal of motor vehicle fuel, if all of the following apply:

1 (A) The motor vehicle fuel is removed by railroad car from an
2 approved refinery and is received at an approved terminal.

3 (B) The refinery and the terminal are operated by the same
4 licensed supplier.

5 (C) The refinery is not served by pipeline (other than a pipeline
6 for the receipt of crude oil) or vessel.

7 (3) Motor vehicle fuel which, pursuant to the contract of sale,
8 is required to be shipped and is shipped to a point outside of this
9 state by a supplier by means of any of the following:

10 (A) Facilities operated by the supplier.

11 (B) Delivery by the supplier to a carrier, customs broker, or
12 forwarding agency, whether hired by the purchaser or not, for
13 shipment to the out-of-state point.

14 (C) Delivery by the supplier to any vessel clearing from a port
15 of this state for a port outside of this state and actually exported
16 from this state in the vessel.

17 (4) Motor vehicle fuel sold by credit card certified by the United
18 States Department of State to any consulate officer or consulate
19 employee of a foreign government who is not engaged in any
20 private occupation for gain within this state, who uses the motor
21 vehicle fuel in a motor vehicle that is registered with the United
22 States Department of State, and whose government has done either
23 of the following:

24 (A) Entered into a treaty with the United States providing for
25 the exemption of its representatives from national, state, and
26 municipal taxes.

27 (B) Granted a similar exemption to representatives of the United
28 States.

29 (5) Motor vehicle fuel sold to the United States armed forces
30 for use in ships or aircraft, or for use outside this state.

31 (6) Gasoline blendstocks removed from a pipeline or vessel,
32 when the gasoline blendstocks are received by a licensed industrial
33 user.

34 (7) Any entry or removal from a terminal or refinery of gasoline
35 blendstocks that are received at an approved terminal or refinery
36 if the person otherwise liable for the tax is a licensed supplier.

37 (8) Any entry or removal from a terminal or refinery of gasoline
38 blendstocks not in connection with a sale if the person otherwise
39 liable for the tax is a licensed supplier and the person does not use
40 the gasoline blendstocks to produce finished gasoline.

(9) Any entry or removal from a terminal or refinery of gasoline blendstocks in connection with a sale if the person otherwise liable for the tax is a licensed supplier and at the time of sale, such person has an unexpired exemption certificate described in Section 7402 from the buyer and has no reason to believe any information in the certificate is false.

(10) If paragraph (8) or (9) applied to the removal or entry of gasoline blendstocks, any resale made of gasoline blendstocks, when the person has an unexpired exemption certificate described in Section 7402 from the buyer and has no reason to believe any information in the certificate is false.

(11) Motor vehicle fuel sold by a supplier to a train operator for use in a motor vehicle fuel-powered train or for other off-highway use and the supplier has on hand an exemption certificate described in Section 7403 from the train operator.

(12) The removal from a terminal or alcohol fuel production facility of, or the entry of, alcohol or blends of gasoline and alcohol that is transferred by railcar to an approved terminal or refinery in this state.

(13) The removal from a terminal or alcohol fuel production facility of, or the entry of, alcohol or blends of gasoline and alcohol that is transferred by railcar to an alcohol fuel storage facility in this state, if all of the following apply:

(A) The operator of the alcohol fuel storage facility is registered as a terminal operator.

(B) The alcohol or blends of gasoline and alcohol is owned by a licensed supplier.

(C) The alcohol or blends of gasoline and alcohol is subsequently removed by a licensed supplier from the alcohol fuel storage facility.

(D) The alcohol or blends of gasoline and alcohol is transferred by truck and trailer to an approved terminal or refinery in this state.

(b) For purposes of this section:

(1) “Carrier” means a person or firm engaged in the business of transporting for compensation property owned by other persons, and includes both common and contract carriers.

(2) “Forwarding agent” means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

1 *SEC. 28. Section 7475 is added to the Revenue and Taxation*
2 *Code, to read:*

3 *7475. Every person, prior to becoming a terminal operator,*
4 *shall register with the board on forms prescribed by the board. A*
5 *terminal operator registration shall be issued only to a person*
6 *who is a terminal operator, as defined in Section 7340, and is*
7 *licensed as a supplier pursuant to Section 7451.*

8 *SEC. 29. Section 7652.9 is added to the Revenue and Taxation*
9 *Code, to read:*

10 *7652.9. Any person that is required to file a return under*
11 *Section 7651 or a report under Section 7652.5 or 7652.7 and who*
12 *has 25 or more reportable transactions in a month shall file the*
13 *return or report using an electronic format authorized by the*
14 *board.*

15 *SEC. 30. Section 7655.5 is added to the Revenue and Taxation*
16 *Code, to read:*

17 *7655.5. (a) Any person that is required to file a return or*
18 *report pursuant to Section 7651, 7652.5, or 7652.7 shall pay a*
19 *penalty of one thousand dollars (\$1,000) for each return or report,*
20 *if the person does any of the following:*

21 *(1) Fails to make a return or report under Section 7651, 7652.5,*
22 *or 7652.7 on or before the date prescribed therefor.*

23 *(2) Files the return or report in a format not authorized pursuant*
24 *to Section 7652.9.*

25 *(3) Fails to include all the information required to be shown*
26 *on the return or report.*

27 *(4) Misclassifies fuels in the incorrect fuel category (Category*
28 *1 fuel, Category 2 fuel, or Category 3 fuel).*

29 *(5) Knowingly includes incorrect information in the return or*
30 *report.*

31 *(b) The penalty imposed in subdivision (a) is in addition to any*
32 *tax, interest, or penalty due with the return filed under Section*
33 *7651.*

34 *(c) Where the board determines that failure to report*
35 *information under Section 7651, 7652.5, or 7652.7 was due to*
36 *reasonable cause and circumstances beyond the person's control,*
37 *and the failure occurred notwithstanding the exercise of ordinary*
38 *care and the absence of willful neglect, the person may be relieved*
39 *of the penalty. A person seeking to be relieved of the penalty shall*

1 *file with the board a statement under penalty of perjury setting*
2 *forth the facts upon which the request for relief is based.*

3 *SEC. 31. Section 7710 of the Revenue and Taxation Code is*
4 *amended to read:*

5 7710. (a) Any supplier against whom a determination is made
6 by the board under Article 3 (commencing with Section 7660) and
7 Article 4 (commencing with Section 7670) may petition for a
8 redetermination within 30 days after the date the notice thereof is
9 given to him. If a petition for redetermination is not filed within
10 the 30-day period, the determination becomes final at the expiration
11 of the period.

12 (b) *No petition for redetermination of taxes determined under*
13 *this part shall be accepted or considered by the board if the petition*
14 *is founded upon the grounds that the California Air Resources*
15 *Board has improperly or erroneously listed a fuel pursuant to the*
16 *LGGE. Any appeal of an LGGE listing of a fuel shall be made to*
17 *the California Air Resources Board.*

18 *SEC. 32. Section 8102 of the Revenue and Taxation Code is*
19 *amended to read:*

20 8102. (a) The claimant of a refund shall present to the
21 Controller a claim supported by the original invoice showing the
22 purchase or other evidence of each purchase that is satisfactory to
23 the Controller. The claim shall state the total amount of the fuel
24 purchased by the claimant and the manner and the equipment in
25 which the claimant has used the fuel. *The claim shall identify the*
26 *fuel as a Category 1, 2, or 3 fuel and the gallons and the amount*
27 *of tax claimed for each category of fuel covered by the claim.* The
28 claim shall state the total amount of motor vehicle fuel covered
29 by the claim and if the motor vehicle fuel was exported, a statement
30 that the claimant has proof of exportation. The claim shall state
31 that the amounts claimed have not been previously refunded to the
32 claimant and that there are no other claims outstanding for the
33 amounts included in the current claim for refund. The claim shall
34 not be under oath but shall contain, or be accompanied by, a written
35 declaration that it is made under the penalties of perjury. If no
36 original invoice was created, electronic invoicing shall be accepted
37 as reflected by a computerized facsimile when accompanied by
38 an original copy of the bill of lading or fuel manifest that can be
39 directly tied to the electronic invoice.

(b) Each claim for refund under this section shall be made on a form prescribed by the Controller and shall be filed for a calendar year, except for claims relating to exportation of fuel. If, at the close of any of the first three quarters of the calendar year, more than seven hundred fifty dollars (\$750) is refundable under this section with respect to any motor vehicle fuel used, sold, or exported during that quarter or any prior quarter during the calendar year, and for which no other claim has been filed, a claim may be filed for the quarterly period. To facilitate the administration of this section, the Controller may require the filing of claims for refund for other than yearly periods. Export claims may be filed at any time.

(c) This section shall be repealed on January 1 of the fiscal year following the fiscal year in which, as determined by the board, the aggregate number of gallons of Category 1 and Category 2 fuels for which the tax incentives have been claimed pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or exceeds one billion gallons.

SEC. 33. Section 8102 is added to the Revenue and Taxation Code, to read:

8102. (a) The claimant of a refund shall present to the Controller a claim supported by the original invoice showing the purchase or other evidence of each purchase that is satisfactory to the Controller. The claim shall state the total amount of the fuel purchased by the claimant and the manner and the equipment in which the claimant has used the fuel. The claim shall state the total amount of motor vehicle fuel covered by the claim and if the motor vehicle fuel was exported, a statement that the claimant has proof of exportation. The claim shall state that the amounts claimed have not been previously refunded to the claimant and that there are no other claims outstanding for the amounts included in the current claim for refund. The claim shall not be under oath but shall contain, or be accompanied by, a written declaration that it is made under the penalties of perjury. If no original invoice was created, electronic invoicing shall be accepted as reflected by a computerized facsimile when accompanied by an original copy of the bill of lading or fuel manifest that can be directly tied to the electronic invoice.

(b) Each claim for refund under this section shall be made on a form prescribed by the Controller and shall be filed for a

1 *calendar year, except for claims relating to exportation of fuel. If,*
2 *at the close of any of the first three quarters of the calendar year,*
3 *more than seven hundred fifty dollars (\$750) is refundable under*
4 *this section with respect to any motor vehicle fuel used, sold, or*
5 *exported during that quarter or any prior quarter during the*
6 *calendar year; and for which no other claim has been filed, a claim*
7 *may be filed for the quarterly period. To facilitate the*
8 *administration of this section, the Controller may require the filing*
9 *of claims for refund for other than yearly periods. Export claims*
10 *may be filed at any time.*

11 *(c) This section shall become operative on January 1 of the*
12 *fiscal year following the fiscal year in which, as determined by the*
13 *board, the aggregate number of gallons of Category 1 and*
14 *Category 2 fuels for which the tax incentives have been claimed*
15 *pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal*
16 *to or exceeds one billion gallons.*

17 *SEC. 34. Section 8129 of the Revenue and Taxation Code is*
18 *amended to read:*

19 *8129. (a) The claim shall be in writing—and, shall state the*
20 *specific grounds upon which it is founded, and shall identify the*
21 *fuel as a Category 1, 2, or 3 fuel and the gallons and the amount*
22 *of tax claimed for each category of fuel covered by the claim.*

23 *(b) This section shall be repealed on January 1 of the fiscal*
24 *year following the fiscal year in which, as determined by the board,*
25 *the aggregate number of gallons of Category 1 and Category 2*
26 *fuels for which the tax incentives have been claimed pursuant to*
27 *Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or*
28 *exceeds one billion gallons.*

29 *SEC. 35. Section 8129 is added to the Revenue and Taxation*
30 *Code, to read:*

31 *8129. (a) The claim shall be in writing and shall state the*
32 *specific grounds upon which it is founded.*

33 *(b) This section shall become operative on January 1 of the*
34 *fiscal year following the fiscal year in which, as determined by the*
35 *board, the aggregate number of gallons of Category 1 and*
36 *Category 2 fuels for which the tax incentives have been claimed*
37 *pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal*
38 *to or exceeds one billion gallons.*

39 *SEC. 36. Section 8651.8 of the Revenue and Taxation Code is*
40 *repealed.*

1 ~~8651.8.— (a) Notwithstanding Section 8651, the excise tax~~
2 ~~imposed upon ethanol or methanol containing not more than 15~~
3 ~~percent gasoline or diesel fuels shall be one-half the rate prescribed~~
4 ~~by Section 8651 for each gallon of fuel used.~~

5 ~~(b) All references in this code to Section 8651 shall be deemed,~~
6 ~~with respect to the rate imposed upon ethanol or methanol, to also~~
7 ~~refer to this section.~~

8 ~~SEC. 37. Section 8657 of the Revenue and Taxation Code is~~
9 ~~repealed.~~

10 ~~8657.— (a) Notwithstanding any provision of the Alcoholic~~
11 ~~Beverage Control Act (Division 9 (commencing with Section~~
12 ~~23000) of the Business and Professions Code) any alcohol~~
13 ~~produced for use in or as a fuel to propel a motor vehicle shall be~~
14 ~~taxed as fuel under this part and shall not be subject to taxes under~~
15 ~~the Alcoholic Beverage Tax Law (Part 14 (commencing with~~
16 ~~Section 32001)).~~

17 ~~(b) The state requirements for determining whether alcohol is~~
18 ~~produced for use in or as a fuel to propel a motor vehicle and not~~
19 ~~for use as an alcoholic beverage shall be the same as the~~
20 ~~requirements of the Bureau of Alcohol, Tobacco and Firearms of~~
21 ~~the United States Department of Treasury under federal law.~~

22 ~~SEC. 38. Section 60003 of the Revenue and Taxation Code is~~
23 ~~amended to read:~~

24 ~~60003. “Terminal” means a diesel fuel storage and distribution~~
25 ~~facility that is supplied by pipeline or vessel, and from which diesel~~
26 ~~fuel may be removed at a rack. “Terminal” includes a storage~~
27 ~~facility at a refinery or renewable diesel production facility~~
28 ~~dedicated to storing diesel fuel if the fuel may be removed at a~~
29 ~~rack. For purposes of this part, “terminal” also includes a~~
30 ~~renewable diesel storage facility as defined in Section 60003.1.~~

31 ~~SEC. 39. Section 60003.1 is added to the Revenue and Taxation~~
32 ~~Code, to read:~~

33 ~~60003.1. “Renewable diesel storage facility” means a storage~~
34 ~~facility, other than a terminal, that is supplied by railcar, pipeline,~~
35 ~~or vessel and from which renewable diesel fuels may be removed~~
36 ~~at a rack.~~

37 ~~SEC. 40. Section 60004.1 is added to the Revenue and Taxation~~
38 ~~Code, to read:~~

39 ~~60004.1. “Renewable diesel production facility” means a~~
40 ~~facility, other than a refinery, in which renewable diesel is~~

1 *produced or a facility, in which renewable diesel is produced and*
2 *blended with petroleum-based diesel fuel.*

3 *SEC. 41. Section 60010 of the Revenue and Taxation Code is*
4 *amended to read:*

5 60010. "Position holder" includes any person that holds the
6 inventory position in the diesel fuel, as reflected on the records of
7 the terminal operator. A person holds the inventory position in
8 diesel fuel when that person has a contractual agreement with the
9 terminal operator for the use of storage facilities and terminaling
10 services at a terminal with respect to the diesel fuel. "Position
11 holder" includes a terminal operator that owns diesel fuel in its
12 terminal. *"Position holder" includes a person who holds an*
13 *inventory position in a renewable diesel storage facility.*

14 *SEC. 42. Section 60011.1 is added to the Revenue and Taxation*
15 *Code, to read:*

16 60011.1. "Renewable diesel producer" means a person that
17 produces renewable diesel in this state at a renewable diesel
18 production facility.

19 *SEC. 43. Section 60022 of the Revenue and Taxation Code is*
20 *amended to read:*

21 60022. (a) "Diesel fuel" means any liquid that is commonly
22 or commercially known or sold as a fuel that is suitable for use in
23 a diesel-powered highway vehicle. A liquid meets this requirement
24 if, without further processing or blending, the liquid has practical
25 and commercial fitness for use in the engine of a diesel-powered
26 highway vehicle.

27 However, a liquid does not possess this practical and commercial
28 fitness solely by reason of its possible or rare use as a fuel in the
29 engine of a diesel-powered highway vehicle.

30 ~~"Diesel~~

31 (b) *"Diesel fuel" includes, but is not limited to, petroleum-based*
32 *diesel fuel, renewable diesel, and blends thereof. "Diesel fuel"*
33 *does not include kerosene, gasoline motor vehicle fuel, liquefied*
34 *liquefied petroleum gas, or natural gas in liquid or gaseous form;*
35 *or alcohol.*

36 ~~(b) This section shall become operative on January 1, 2007.~~

37 *SEC. 44. Section 60022.1 is added to the Revenue and Taxation*
38 *Code, to read:*

39 60022.1. "Petroleum-based diesel fuel" means diesel fuel
40 produced from crude oil or refined petroleum products.

1 SEC. 45. Section 60022.2 is added to the Revenue and Taxation
2 Code, to read:

3 60022.2. “Renewable diesel” means diesel fuel produced from
4 nonpetroleum, renewable feed stocks, including vegetable oils or
5 animal fats, which is suitable for use in diesel-powered highway
6 vehicles.

7 SEC. 46. Section 60033 of the Revenue and Taxation Code is
8 amended to read:

9 60033. “Supplier” includes any person who is any of the
10 following:

- 11 (a) Blender, as defined in Section 60012.
- 12 (b) Enterer, as defined in Section 60013.
- 13 (c) Position holder, as defined in Section 60010.
- 14 (d) Refiner, as defined in Section 60011.
- 15 (e) Terminal operator, as defined in Section 60009.
- 16 (f) Throughputter, as defined in Section 60035.
- 17 (g) Renewable diesel producer, as defined in Section 60011.1.

18 SEC. 47. Section 60049.2 is added to the Revenue and Taxation
19 Code, to read:

20 60049.2. (a) “Lifecycle Greenhouse Gas Emission” (LGGE)
21 means the lifecycle greenhouse gas emissions of gasoline, as
22 identified and listed by the California Air Resources Board.

23 (b) The California Air Resources Board shall identify and list
24 the LGGE for all fuel subject to tax under Section 60051, 60052,
25 or 60058, and shall notify the board when the changes are made
26 to that list.

27 SEC. 48. Section 60049.4 is added to the Revenue and Taxation
28 Code, to read:

29 60049.4. (a) “Clean Fuel Incentive Balance” means the net
30 difference between the amount of revenue lost due to the tax rate
31 reductions allowed under Sections 60050.2 and 60050.3 for
32 Category 1 and 2 fuels and the amount of incremental revenue
33 realized as a result of the rate applied to Category 3 fuel pursuant
34 to Section 60050.4.

35 (b) This section shall be repealed on January 1 of the fiscal
36 year following the fiscal year in which, as determined by the board,
37 the aggregate number of gallons of Category 1 and Category 2
38 fuels for which the tax incentives have been claimed pursuant to
39 Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or
40 exceeds one billion gallons.

SEC. 49. Section 60049.5 is added to the Revenue and Taxation Code, to read:

60049.5. “Category 1 fuel” means low-carbon diesel fuel, or a finished component thereof, that creates 40 percent or less of the LGGE, as identified and listed by the California Air Resources Board.

SEC. 50. Section 60049.6 is added to the Revenue and Taxation Code, to read:

60049.6. “Category 2 fuel” means reduced-carbon diesel fuel, or a finished component thereof, that creates over 40 percent but less than 75 percent of the LGGE of an imported gallon of gasoline, as identified and listed by the California Air Resources Board.

SEC. 51. Section 60049.7 is added to the Revenue and Taxation Code, to read:

60049.7. “Category 3 fuel” means either of the following:

(a) High-carbon diesel fuel, or a finished component thereof, that is neither Category 1 fuel, as defined in Section 60049.5, nor Category 2 fuel, as defined in Section 60049.6.

(b) Any diesel fuel, or a finished component thereof, that is not labeled.

SEC. 52. Section 60050.2 is added to the Revenue and Taxation Code, to read:

60050.2. (a) Notwithstanding Section 60050, on and after the effective date specified in Section 60050.6, a tax rate of zero cents (\$0.00) shall be imposed on Category 1 fuel that is subject to the tax under Section 60051, 60052, or 60058.

(b) This section shall be repealed on January 1 of the fiscal year following the fiscal year in which, as determined by the board, the aggregate number of gallons of Category 1 and Category 2 fuels for which the tax incentives have been claimed pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or exceeds one billion gallons.

SEC. 53. Section 60050.3 is added to the Revenue and Taxation Code, to read:

60050.3. (a) Notwithstanding Section 60050, on and after the effective date specified in Section 60050.6, a tax rate of one-half the rate prescribed by Section 60050 shall be imposed on Category 2 fuel that is subject to the tax under Sections 60051, 60052, and 60058.

1 ***(b) This section shall be repealed on January 1 of the fiscal***
2 ***year following the fiscal year in which, as determined by the board,***
3 ***the aggregate number of gallons of Category 1 and Category 2***
4 ***fuels for which the tax incentives have been claimed pursuant to***
5 ***Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or***
6 ***exceeds one billion gallons.***

7 ***SEC. 54. Section 60050.4 is added to the Revenue and Taxation***
8 ***Code, to read:***

9 ***60050.4. (a) Notwithstanding Section 60050, the tax rate as***
10 ***described in subdivision (b) shall be imposed on Category 3 fuel***
11 ***that is subject to the tax under Section 60051, 60052, or 60058.***

12 ***(b) (1) On and after the effective date specified in Section***
13 ***60050.6, the tax rate imposed on Category 3 fuel pursuant to***
14 ***subdivision (a) shall be the amount specified in Section 60050 plus***
15 ***one hundredth of one cent (\$0.1801) per each gallon of Category***
16 ***3 fuel subject to the tax imposed under Section 60051, 60052, or***
17 ***60058. This tax rate shall remain in effect until adjusted by the***
18 ***board, as specified in paragraph (2).***

19 ***(2) On and after January 1 of the calendar year following the***
20 ***date specified in Section 60050.6 and annually thereafter, the***
21 ***board shall determine if the tax rate set forth in paragraph (1)***
22 ***should be decreased or increased, if necessary, so that the total***
23 ***amount of revenues derived from that tax rate is equal to the Clean***
24 ***Fuel Incentive Balance for the immediately preceding fiscal year.***

25 ***(c) In order to determine the tax rate as described in paragraph***
26 ***(2) of subdivision (b), the board shall do all of the following:***

27 ***(1) Ascertain the reported taxable gallons of Category 1,***
28 ***Category 2, and Category 3 fuels in the previous fiscal year.***

29 ***(2) Calculate the amount of the Clean Fuel Incentive Balance,***
30 ***as specified in Section 60049.4.***

31 ***(4) Determine if the tax rate described in subdivision (b) should***
32 ***be decreased or increased or remain the same.***

33 ***(5) If appropriate, divide the Clean Fuel Incentive Balance***
34 ***amount by the number of taxable Category 3 gallons of fuel***
35 ***reported in the previous fiscal year and round that number to one***
36 ***hundredth of one cent (\$0.01), whichever is higher.***

37 ***(d) This section shall be repealed on January 1 of the fiscal***
38 ***year following the fiscal year in which, as determined by the board,***
39 ***the aggregate number of gallons of Category 1 and Category 2***
40 ***fuels for which the tax incentives have been claimed pursuant to***

1 Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or
2 exceeds one billion gallons.

3 SEC. 55. Section 60050.5 is added to the Revenue and Taxation
4 Code, to read:

5 60050.5. The California Air Resources Board shall publish
6 and maintain a list of fuels that qualify as Category 1, Category
7 2, and Category 3 fuels, as provided in Section 60049.5, 60049.6,
8 and 60049.7.

9 SEC. 56. Section 60050.6 is added to the Revenue and Taxation
10 Code, to read:

11 60050.6. The tax rates for Category 1, Category 2, and
12 Category 3 fuels shall not be effective until January 1 of the
13 calendar year, but no sooner than six months, following approval
14 by the Office of Administrative Law of the California Air Resources
15 Board's regulations relating to the LGGE and receipt by the board
16 of the LGGE list from the California Air Resources Board.

17 SEC. 57. Section 60052 of the Revenue and Taxation Code is
18 amended to read:

19 60052. The tax specified in Section 60050 is also imposed on
20 all of the following:

21 (a) The removal of diesel fuel in this state from any refinery if
22 either of the following applies:

23 (1) The removal is by bulk transfer and the refiner or the owner
24 of the diesel fuel immediately before the removal is not a diesel
25 fuel registrant.

26 (2) The removal is at the refinery rack.

27 (b) The entry of diesel fuel into this state for sale, consumption,
28 use, or warehousing if either of the following applies:

29 (1) The entry is by bulk transfer and the enterer is not a diesel
30 fuel registrant.

31 (2) The entry is not by bulk transfer.

32 (c) The removal or sale of diesel fuel in this state to an
33 unregistered person unless there was a prior taxable removal, entry,
34 or sale of the diesel fuel.

35 (d) The removal or sale of blended diesel fuel in this state by
36 the blender thereof. The number of gallons of blended diesel fuel
37 subject to tax is the difference between the total number of gallons
38 of blended diesel fuel removed or sold and the number of gallons
39 of previously taxed diesel fuel used to produce the blended diesel
40 fuel.

1 (e) *The removal or sale of renewable diesel or blends of*
2 *renewable diesel and petroleum-based diesel fuel in this state from*
3 *a renewable diesel production facility.*

4 SEC. 58. *Section 60053.1 is added to the Revenue and Taxation*
5 *Code, to read:*

6 60053.1. *Every renewable diesel producer shall pay the tax*
7 *on the removal or sale of renewable diesel or blends of renewable*
8 *diesel and petroleum-based diesel fuel from a renewable diesel*
9 *production facility as provided in subdivision (e) of Section 60052.*

10 SEC. 59. *Section 60064 of the Revenue and Taxation Code is*
11 *amended to read:*

12 60064. (a) For the purpose of the proper administration of this
13 part and to prevent evasion of the tax, unless the contrary is
14 established, it shall be presumed that all diesel fuel received at a
15 terminal in this state, imported into this state, or refined and placed
16 into storage for removal at a refinery *or renewable diesel*
17 *production facility* in this state or blended diesel fuel blended or
18 converted in this state and no longer in the possession of the
19 supplier has been removed or sold by the supplier.

20 (b) The presumption shall not apply if the supplier proves to
21 the satisfaction of the board that both:

22 (1) The supplier has exercised ordinary care in entrusting control
23 or possession of the diesel fuel to another person.

24 (2) The person to whom the supplier has entrusted the control
25 or possession of the diesel fuel as bailee, consignee, employee, or
26 agent, caused a removal or sale by the act of converting to that
27 person's own use the diesel fuel so entrusted to that person by the
28 supplier.

29 (c) If the supplier proves to the satisfaction of the board, the
30 existence of both of the circumstances in paragraphs (1) and (2)
31 of subdivision (b), then the person who converted the diesel fuel
32 to his or her own use, as well as any other person receiving that
33 diesel fuel with the knowledge that it was so converted, shall be
34 liable for payment of the tax imposed upon the removal or sale,
35 and all those persons shall be considered as suppliers for the
36 purpose of Chapter 6 (commencing with Section 60201) or Chapter
37 7 (commencing with Section 60401) of this part.

38 SEC. 60. *Section 60065 is added to the Revenue and Taxation*
39 *Code, to read:*

1 60065. (a) For purpose of the proper administration of this
2 part and to prevent evasion of the tax, it shall be presumed, unless
3 the contrary is established, that all diesel fuel received at a
4 terminal in this state, imported into this state, or refined and placed
5 into storage for removal at a refinery or renewable diesel
6 production facility in this state, or blended diesel fuel blended or
7 converted in this state, is Category 3 fuel.

8 (b) The presumption shall not apply if the supplier proves to
9 the satisfaction of the board that the diesel fuel, or finished
10 component thereof, has been identified as a Category 1 or Category
11 2 fuel by the board pursuant to the fuel's LGGE, as identified and
12 listed by the California Air Resources Board and has been properly
13 labeled as provided for by the California Air Resources Board.

14 SEC. 61. Section 60100 of the Revenue and Taxation Code is
15 amended to read:

16 60100. (a) The provisions of this part requiring the payment
17 of taxes do not apply to any of the following:

18 (1) The removal from a terminal or refinery of, or the entry or
19 sale of, any diesel fuel if all of the following apply:

20 (A) The person otherwise liable for tax is a diesel fuel registrant.

21 (B) In the case of a removal from a terminal, the terminal is an
22 approved terminal.

23 (C) The diesel fuel satisfies the dyeing and marking
24 requirements of Section 60101.

25 (2) Any entry or removal from a terminal or refinery of taxable
26 diesel fuel transferred in bulk to a refinery or terminal if the persons
27 involved (including the terminal operator) are registered.

28 (3) The removal of diesel fuel if all of the following apply:

29 (A) The diesel fuel is removed by railroad car from an approved
30 refinery and is received at an approved terminal.

31 (B) The refinery and the terminal are operated by the same diesel
32 fuel registrant.

33 (C) The refinery is not served by pipeline (other than a pipeline
34 for the receipt of crude oil) or vessel.

35 (4) Diesel fuel which, pursuant to the contract of sale, is required
36 to be shipped and is shipped to a point outside of this state by a
37 supplier by means of any of the following:

38 (A) Facilities operated by the supplier.

1 (B) Delivery by the supplier to a carrier, customs broker, or
2 forwarding agent, whether hired by the purchaser or not, for
3 shipment to the out-of-state point.

4 (C) Delivery by the supplier to any vessel clearing from a port
5 of this state for a port outside of this state and actually exported
6 from this state in the vessel.

7 (5) Backup tax does not apply to delivery of diesel fuel into the
8 fuel tank of a diesel-powered highway vehicle as provided in
9 Section 60058 for any of the following:

10 (A) Use on a farm for farming purposes.

11 (B) Use in an exempt bus operation.

12 (C) Use in a diesel-powered highway vehicle that is operated
13 off the highway.

14 (D) Use in a diesel-powered highway vehicle that is owned and
15 operated by a government entity.

16 (E) Use by the United States and its agencies and
17 instrumentalities.

18 (6) Diesel fuel sold by credit card certified by the United States
19 Department of State to any consulate officer or consulate employee
20 of a foreign government who is not engaged in any private
21 occupation for gain within this state, who uses the diesel fuel in a
22 motor vehicle which is registered with the United States
23 Department of State, and whose government has done either of
24 the following:

25 (A) Entered into a treaty with the United States providing for
26 the exemption of its representatives from national, state, and
27 municipal taxes.

28 (B) Granted a similar exemption to representatives of the United
29 States.

30 (7) Diesel fuel sold by a supplier to a train operator for use in
31 a diesel-powered train or for other off-highway use and the supplier
32 has on hand an exemption certificate from the train operator.

33 (8) Diesel fuel sold by a supplier to the United States and its
34 agencies and instrumentalities.

35 (9) *The removal from a terminal or renewable diesel production*
36 *facility of, or the entry of, renewable diesel or blends of renewable*
37 *diesel and petroleum-based diesel fuel that is transferred by railcar*
38 *to an approved terminal or refinery in this state.*

39 (10) *The removal from a terminal or renewable diesel*
40 *production facility of, or entry of, renewable diesel or blends of*

1 *renewable diesel and petroleum-based diesel fuel that is transferred*
2 *by railcar to a renewable diesel storage facility in this state, if all*
3 *of the following apply:*

4 (A) *The operator of the renewable diesel storage facility is*
5 *registered as a terminal operator.*

6 (B) *The renewable diesel or blends of renewable diesel and*
7 *petroleum-based diesel fuel is owned by a diesel fuel registrant.*

8 (C) *The renewable diesel or blends of renewable diesel and*
9 *petroleum-based diesel fuel is subsequently removed by a diesel*
10 *fuel registrant from the renewable diesel storage facility.*

11 (D) *The renewable diesel or blends of renewable diesel and*
12 *petroleum-based diesel fuel is transferred by truck or trailer to an*
13 *approved terminal or refinery in this state.*

14 (b) *For purposes of this section:*

15 (1) *“Carrier” means a person or firm engaged in the business*
16 *of transporting for compensation property owned by other persons,*
17 *and includes both common and contract carriers.*

18 (2) *“Forwarding agent” means a person or firm engaged in the*
19 *business of preparing property for shipment or arranging for its*
20 *shipment.*

21 *SEC. 62. Section 60115 of the Revenue and Taxation Code is*
22 *amended to read:*

23 60115. *For the privilege of using diesel fuel in a qualified motor*
24 *vehicle in this state by interstate users, there is hereby imposed*
25 *upon any interstate user for each gallon of diesel fuel used in this*
26 *state, a tax consisting of the following two components:*

27 (a) *A tax at the rate imposed by Section 60050.*

28 (b) *A tax at the rate prescribed by Section 60116.*

29 (c) *On and after the effective date specified in Section 60050.6,*
30 *the tax will consist of the following two components:*

31 (1) *The tax on the fuel category imposed by Section 60050.2,*
32 *60050.3, or 60050.4.*

33 (2) *A tax at the rate prescribed by Section 60116.*

34 (d) (1) *For purpose of the proper administration of this part*
35 *and to prevent evasion of the tax, it shall be presumed, unless the*
36 *contrary is established, that all diesel fuel used by an interstate*
37 *user in this state is Category 3 fuel.*

38 (2) *The presumption shall not apply if the interstate user proves*
39 *to the satisfaction of the board that the diesel fuel, or finished*
40 *component thereof, is identified as a Category 1 or Category 2*

1 fuel by the board pursuant to the fuel's LGGE, as identified and
2 listed by the California Air Resources Board and has been properly
3 labeled, as provided by the California Air Resources Board.

4 (e) This section shall be repealed on January 1 of the fiscal year
5 following the fiscal year in which, as determined by the board, the
6 aggregate number of gallons of Category 1 and Category 2 fuels
7 for which the tax incentives have been claimed pursuant to Sections
8 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or exceeds one
9 billion gallons.

10 SEC. 63. Section 60115 is added to the Revenue and Taxation
11 Code, to read:

12 60115. (a) For the privilege of using diesel fuel in a qualified
13 motor vehicle in this state by interstate users, there is hereby
14 imposed upon any interstate user for each gallon of diesel fuel
15 used in this state, a tax consisting of the following two components:

16 (1) A tax at the rate imposed by Section 60050.

17 (2) A tax at the rate prescribed by Section 60116.

18 (b) This section shall become operative on January 1 of the
19 fiscal year following the fiscal year in which, as determined by the
20 board, the aggregate number of gallons of Category 1 and
21 Category 2 fuels for which the tax incentives have been claimed
22 pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal
23 to or exceeds one billion gallons.

24 SEC. 64. Section 60136 is added to the Revenue and Taxation
25 Code, to read:

26 60136. Every person, before becoming a terminal operator,
27 shall register with the board on forms prescribed by the board. A
28 terminal operator registration shall be issued only to a person
29 who is a terminal operator, as defined in Section 60009, and is
30 licensed as a supplier pursuant to Section 60131.

31 SEC. 65. Section 60203 is added to the Revenue and Taxation
32 Code, to read:

33 60203. Any person that is required to file a tax return, report,
34 or claim form under this part and who has 25 or more reportable
35 transactions to report with the filing shall file using an electronic
36 format authorized by the board.

37 SEC. 66. Section 60207.5 is added to the Revenue and Taxation
38 Code, to read:

39 60207.5. (a) Any person that is required to file a return or
40 report pursuant to Section 60201, 60204, or 60204.5 shall pay a

1 *penalty of one thousand dollars (\$1,000) for each return or report*
2 *if the person does any of the following:*

3 *(1) Fails to make a return or report under Section 60201, 60204,*
4 *or 60204.5 on or before the date prescribed therefor.*

5 *(2) Files the return or report in a format not authorized pursuant*
6 *to Section 60203.*

7 *(3) Fails to include all the information required to be shown*
8 *on the return or report.*

9 *(4) Misclassifies fuels in the incorrect fuel category (Category*
10 *1 fuel, Category 2 fuel, or Category 3 fuel).*

11 *(5) Knowingly includes incorrect information in the return or*
12 *report.*

13 *(b) The penalty imposed in subdivision (a) is in addition to any*
14 *tax, interest, or penalty due with the return filed under Section*
15 *60201.*

16 *(c) Where the board determines that failure to report*
17 *information under Section 60201, 60204, or 60204.5 was due to*
18 *reasonable cause and circumstances beyond the person's control,*
19 *and the failure occurred notwithstanding the exercise of ordinary*
20 *care and the absence of willful neglect, the person may be relieved*
21 *of the penalty. A person seeking to be relieved of the penalty shall*
22 *file with the board a statement under penalty of perjury setting*
23 *forth the facts upon which the request for relief is based.*

24 *SEC. 67. Section 60350 of the Revenue and Taxation Code is*
25 *amended to read:*

26 *60350. (a) Any person against whom a determination is made*
27 *by the board under Article 2 (commencing with Section 60301)*
28 *and Article 3 (commencing with Section 60310) may petition for*
29 *a redetermination within 30 days after the date the notice thereof*
30 *is given to him or her. If a petition for redetermination is not filed*
31 *within the 30-day period, the determination becomes final at the*
32 *expiration of the period.*

33 *(b) No petition for redetermination of taxes determined under*
34 *this part shall be accepted or considered by the board if the petition*
35 *is founded upon the grounds that the California Air Resources*
36 *Board has improperly or erroneously listed a fuel pursuant to the*
37 *LGGE. Any appeal of a LGGE listing of a fuel shall be made to the*
38 *California Air Resources Board.*

39 *SEC. 68. Section 60501 of the Revenue and Taxation Code is*
40 *amended to read:*

60501. Persons who have paid a tax for diesel fuel lost, sold, or removed as provided in paragraph (4) of subdivision (a), or used in a nontaxable use, other than on a farm for farming purposes or in an exempt bus operation, shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax.

(a) A claim for refund with respect to diesel fuel is allowed under this section only if all of the following apply:

(1) Tax was imposed on the diesel fuel to which the claim relates.

(2) The claimant bought or produced the diesel fuel and did not sell or resell it in this state except as provided in paragraph (4) of subdivision (a).

(3) The claimant has filed a timely claim for refund that contains the information required under subdivision (b) and the claim is supported by the original invoice or original invoice facsimile retained in an alternative storage media showing the purchase. If no original invoice was created, electronic invoicing shall be accepted as reflected by a computerized facsimile when accompanied by an original copy of the bill of lading or fuel manifest that can be directly tied to the electronic invoice.

(4) The diesel fuel was any of the following:

(A) Used for purposes other than operating motor vehicles upon the public highways of the state.

(B) Exported for use outside of this state. Diesel fuel carried from this state in the fuel tank of a motor vehicle is not deemed to be exported from this state unless the diesel fuel becomes subject to tax as an import under the laws of the destination state.

(C) Used in any construction equipment that is exempt from vehicle registration pursuant to the Vehicle Code, while operated within the confines and limits of a construction project.

(D) Used in the operation of a motor vehicle on any highway that is under the jurisdiction of the United States Department of Agriculture and with respect to the use of the highway the claimant pays, or contributes to, the cost of construction or maintenance thereof pursuant to an agreement with, or permission of, the United States Department of Agriculture.

(E) Used in any motor vehicle owned by any county, city and county, city, district, or other political subdivision or public agency when operated by it over any highway constructed and maintained by the United States or any department or agency thereof within

1 a military reservation in this state. If the motor vehicle is operated
2 both over the highway and over a public highway outside the
3 military reservation in a continuous trip the tax shall not be
4 refunded as to that portion of the diesel fuel used to operate the
5 vehicle over the public highway outside the military reservation.

6 Nothing contained in this section shall be construed as a refund
7 of the tax for the use of diesel fuel in any motor vehicle operated
8 upon a public highway within a military reservation, which
9 highway is constructed or maintained by this state or any political
10 subdivision thereof.

11 As used in this section, "military reservation" includes any
12 establishment of the United States Government or any agency
13 thereof used by the armed forces of the United States for military,
14 air, or naval operations, including research projects.

15 (F) Sold by a supplier to any consulate officer or consulate
16 employee under circumstances which would have entitled the
17 supplier to an exemption under paragraph (6) of subdivision (a)
18 of Section 60100 if the supplier had sold the diesel fuel directly
19 to the consulate officer or consulate employee.

20 (G) Lost in the ordinary course of handling, transportation, or
21 storage.

22 (H) Sold by a person to the United States and its agencies and
23 instrumentalities under circumstances that would have entitled that
24 person to an exemption from the payment of diesel fuel tax under
25 Section 60100 had that person been the supplier of this diesel fuel.

26 (I) Sold by a person to a train operator for use in a
27 diesel-powered train or for other off-highway use under
28 circumstances that would have entitled that person to an exemption
29 from the payment of diesel fuel tax under Section 60100 had that
30 person been the supplier of this diesel fuel.

31 (J) Removed from an approved terminal at the terminal rack,
32 but only to the extent that the supplier can show that the tax on the
33 same amount of diesel fuel has been paid more than one time by
34 the same supplier.

35 (b) Each claim for refund under this section shall contain the
36 following information with respect to all of the diesel fuel covered
37 by the claim:

38 (1) The name, address, telephone number, and permit number
39 of the person that sold the diesel fuel to the claimant and the date
40 of the purchase.

1 (2) A statement by the claimant that the diesel fuel covered by
2 the claim did not contain visible evidence of dye.

3 (3) A statement, which may appear on the invoice, original
4 invoice facsimile, or similar document, by the person that sold the
5 diesel fuel to the claimant that the diesel fuel sold did not contain
6 visible evidence of dye.

7 (4) The total amount of diesel fuel covered by the claim.

8 (5) The use made of the diesel fuel covered by the claim
9 described by reference to specific categories listed in paragraph
10 (4) of subdivision (a).

11 (6) If the diesel fuel covered by the claim was exported, a
12 statement that the claimant has the proof of exportation.

13 (7) *Information identifying the fuel as a Category 1, Category*
14 *2, or Category 3 and the gallons and the amount of tax claimed*
15 *for each category of fuel covered by the claim.*

16 (c) Each claim for refund under this section shall be made ~~on~~
17 *in* a form prescribed by the board and shall be filed for a calendar
18 year. If, at the close of any of the first three quarters of the calendar
19 year, more than seven hundred fifty dollars (\$750) is refundable
20 under this section with respect to diesel fuel used or exported
21 during that quarter or any prior quarter during the calendar year,
22 and for which no other claim has been filed, a claim may be filed
23 for the quarterly period. To facilitate the administration of this
24 section, the board may require the filing of claims for refund for
25 other than yearly periods.

26 (d) *This section shall be repealed on January 1 of the fiscal*
27 *year following the fiscal year in which, as determined by the board,*
28 *the aggregate number of gallons of Category 1 and Category 2*
29 *fuels for which the tax incentives have been claimed pursuant to*
30 *Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or*
31 *exceeds one billion gallons.*

32 SEC. 69. Section 60501 is added to the Revenue and Taxation
33 Code, to read:

34 60501. *Persons who have paid a tax for diesel fuel lost, sold,*
35 *or removed as provided in paragraph (4) of subdivision (a), or*
36 *used in a nontaxable use, other than on a farm for farming*
37 *purposes or in an exempt bus operation, shall, except as otherwise*
38 *provided in this part, be reimbursed and repaid the amount of the*
39 *tax.*

1 (a) A claim for refund with respect to diesel fuel is allowed
2 under this section only if all of the following apply:

3 (1) Tax was imposed on the diesel fuel to which the claim
4 relates.

5 (2) The claimant bought or produced the diesel fuel and did not
6 sell or resell it in this state except as provided in paragraph (4)
7 of subdivision (a).

8 (3) The claimant has filed a timely claim for refund that contains
9 the information required under subdivision (b) and the claim is
10 supported by the original invoice or original invoice facsimile
11 retained in an alternative storage media showing the purchase. If
12 no original invoice was created, electronic invoicing shall be
13 accepted as reflected by a computerized facsimile when
14 accompanied by an original copy of the bill of lading or fuel
15 manifest that can be directly tied to the electronic invoice.

16 (4) The diesel fuel was any of the following:

17 (A) Used for purposes other than operating motor vehicles upon
18 the public highways of the state.

19 (B) Exported for use outside of this state. Diesel fuel carried
20 from this state in the fuel tank of a motor vehicle is not deemed to
21 be exported from this state unless the diesel fuel becomes subject
22 to tax as an import under the laws of the destination state.

23 (C) Used in any construction equipment that is exempt from
24 vehicle registration pursuant to the Vehicle Code, while operated
25 within the confines and limits of a construction project.

26 (D) Used in the operation of a motor vehicle on any highway
27 that is under the jurisdiction of the United States Department of
28 Agriculture and with respect to the use of the highway the claimant
29 pays, or contributes to, the cost of construction or maintenance
30 thereof pursuant to an agreement with, or permission of, the United
31 States Department of Agriculture.

32 (E) Used in any motor vehicle owned by any county, city and
33 county, city, district, or other political subdivision or public agency
34 when operated by it over any highway constructed and maintained
35 by the United States or any department or agency thereof within
36 a military reservation in this state. If the motor vehicle is operated
37 both over the highway and over a public highway outside the
38 military reservation in a continuous trip the tax shall not be
39 refunded as to that portion of the diesel fuel used to operate the
40 vehicle over the public highway outside the military reservation.

1 *Nothing contained in this section shall be construed as a refund*
2 *of the tax for the use of diesel fuel in any motor vehicle operated*
3 *upon a public highway within a military reservation, which*
4 *highway is constructed or maintained by this state or any political*
5 *subdivision thereof.*

6 *As used in this section, "military reservation" includes any*
7 *establishment of the United States Government or any agency*
8 *thereof used by the Armed Forces of the United States for military,*
9 *air, or naval operations, including research projects.*

10 *(F) Sold by a supplier to any consulate officer or consulate*
11 *employee under circumstances which would have entitled the*
12 *supplier to an exemption under paragraph (6) of subdivision (a)*
13 *of Section 60100 if the supplier had sold the diesel fuel directly to*
14 *the consulate officer or consulate employee.*

15 *(G) Lost in the ordinary course of handling, transportation, or*
16 *storage.*

17 *(H) Sold by a person to the United States and its agencies and*
18 *instrumentalities under circumstances that would have entitled*
19 *that person to an exemption from the payment of the diesel fuel*
20 *tax under Section 60100 had that person been the supplier of the*
21 *diesel fuel.*

22 *(I) Sold by a person to a train operator for use in a*
23 *diesel-powered train or for other off-highway use under*
24 *circumstances that would have entitled that person to an exemption*
25 *from the payment of the diesel fuel tax under Section 60100 had*
26 *that person been the supplier of the diesel fuel.*

27 *(J) Removed from an approved terminal at the terminal rack,*
28 *but only to the extent that the supplier can show that the tax on*
29 *the same amount of diesel fuel has been paid more than one time*
30 *by the same supplier.*

31 *(b) Each claim for refund under this section shall contain the*
32 *following information with respect to all of the diesel fuel covered*
33 *by the claim:*

34 *(1) The name, address, telephone number, and permit number*
35 *of the person that sold the diesel fuel to the claimant and the date*
36 *of the purchase.*

37 *(2) A statement by the claimant that the diesel fuel covered by*
38 *the claim did not contain visible evidence of dye.*

39 *(3) A statement, which may appear on the invoice, original*
40 *invoice facsimile, or similar document, by the person that sold the*

1 *diesel fuel to the claimant that the diesel fuel sold did not contain*
2 *visible evidence of dye.*

3 *(4) The total amount of diesel fuel covered by the claim.*

4 *(5) The use made of the diesel fuel covered by the claim*
5 *described by reference to specific categories listed in paragraph*
6 *(4) of subdivision (a).*

7 *(6) If the diesel fuel covered by the claim was exported, a*
8 *statement that the claimant has the proof of exportation.*

9 *(c) Each claim for refund under this section shall be made in a*
10 *form prescribed by the board and shall be filed for a calendar*
11 *year. If, at the close of any of the first three quarters of the calendar*
12 *year, more than seven hundred fifty dollars (\$750) is refundable*
13 *under this section with respect to diesel fuel used or exported*
14 *during that quarter or any prior quarter during the calendar year;*
15 *and for which no other claim has been filed, a claim may be filed*
16 *for the quarterly period. To facilitate the administration of this*
17 *section, the board may require the filing of claims for refund for*
18 *other than yearly periods.*

19 *(d) This section shall become operative on January 1 of the*
20 *fiscal year following the fiscal year in which, as determined by the*
21 *board, the aggregate number of gallons of Category 1 and*
22 *Category 2 fuels for which the tax incentives have been claimed*
23 *pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal*
24 *to or exceeds one billion gallons.*

25 *SEC. 70. Section 60502 of the Revenue and Taxation Code is*
26 *amended to read:*

27 *60502. (a) Any ultimate vendor who has paid a tax on diesel*
28 *fuel sold to an ultimate purchaser for use on a farm for farming*
29 *purposes or use in an exempt bus operation shall, except as*
30 *otherwise provided in this part, be reimbursed and repaid the*
31 *amount of the tax.*

32 *(b) A claim for refund with respect to diesel fuel is allowed*
33 *under this section only if all of the following apply:*

34 *(1) Tax was imposed on the diesel fuel to which the claim*
35 *relates.*

36 *(2) The claimant sold the diesel fuel to the ultimate purchaser*
37 *for use on a farm for farming purposes or for use in an exempt bus*
38 *operation.*

39 *(3) The claimant is a registered ultimate vendor.*

1 (4) The claimant has filed a timely claim for refund that contains
2 the information required under subdivision (c) and the claim is
3 supported by the original invoice showing the purchase. If no
4 original invoice was created, electronic invoicing shall be accepted
5 as reflected by a computerized facsimile when accompanied by
6 an original copy of the bill of lading or fuel manifest that can be
7 directly tied to the electronic invoice.

8 (c) Each claim for refund under this section shall contain the
9 following information with respect to all the diesel fuel covered
10 by the claim:

11 (1) The claimant's permit number.

12 (2) The name, address, telephone number, and permit number
13 of each person that sold the diesel fuel to the claimant and the date
14 of the purchase.

15 (3) The name, address, telephone number, and federal taxpayer
16 identification number of each farmer or the permit number of each
17 exempt bus operator that bought the diesel fuel from the claimant
18 and the number of gallons that the claimant sold to each.

19 (4) A statement that the diesel fuel covered by the claim did not
20 contain visible evidence of dye.

21 (5) The total amount of diesel fuel covered by the claim.

22 (6) A statement that the claimant has not included the amount
23 of the tax in its sales price of the diesel fuel and has not collected
24 the amount of tax from its buyer.

25 (7) A statement that the claimant has in its possession an
26 unexpired exemption certificate described in Section 60503 and
27 the claimant has no reason to believe any information in the
28 certificate is false.

29 (8) A statement that the amounts claimed have not been
30 previously refunded to the claimant and that there are no other
31 claims outstanding for the amounts included in the current claim.

32 (9) *Information identifying the fuel as a Category 1, Category*
33 *2, or Category 3 fuel, and the gallons and the amount of tax*
34 *claimed for each category of fuel covered by the claim.*

35 (d) Each claim for refund under this section shall be made ~~on~~
36 *in* a form prescribed by the board and shall be for an amount of
37 not less than two hundred dollars (\$200) and for a period of not
38 less than one week.

39 (e) *This section shall be repealed on January 1 of the fiscal year*
40 *following the fiscal year in which, as determined by the board, the*

1 aggregate number of gallons of Category 1 and Category 2 fuels
2 for which the tax incentives have been claimed pursuant to Sections
3 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or exceeds one
4 billion gallons.

5 SEC. 71. Section 60502 is added to the Revenue and Taxation
6 Code, to read:

7 60502. (a) Any ultimate vendor who has paid a tax on diesel
8 fuel sold to an ultimate purchaser for use on a farm for farming
9 purposes or use in an exempt bus operation shall, except as
10 otherwise provided in this part, be reimbursed and repaid the
11 amount of the tax.

12 (b) A claim for refund with respect to diesel fuel is allowed
13 under this section only if all of the following apply:

14 (1) Tax was imposed on the diesel fuel to which the claim
15 relates.

16 (2) The claimant sold the diesel fuel to the ultimate purchaser
17 for use on a farm for farming purposes or for use in an exempt
18 bus operation.

19 (3) The claimant is a registered ultimate vendor.

20 (4) The claimant has filed a timely claim for refund that contains
21 the information required under subdivision (c) and the claim is
22 supported by the original invoice showing the purchase. If no
23 original invoice was created, electronic invoicing shall be accepted
24 as reflected by a computerized facsimile when accompanied by an
25 original copy of the bill of lading or fuel manifest that can be
26 directly tied to the electronic invoice.

27 (c) Each claim for refund under this section shall contain the
28 following information with respect to all the diesel fuel covered
29 by the claim:

30 (1) The claimant's permit number.

31 (2) The name, address, telephone number, and permit number
32 of each person that sold the diesel fuel to the claimant and the date
33 of the purchase.

34 (3) The name, address, telephone number, and federal taxpayer
35 identification number of each farmer or the permit number of each
36 exempt bus operator that bought the diesel fuel from the claimant
37 and the number of gallons that the claimant sold to each.

38 (4) A statement that the diesel fuel covered by the claim did not
39 contain visible evidence of dye.

40 (5) The total amount of diesel fuel covered by the claim.

1 (6) A statement that the claimant has not included the amount
2 of the tax in its sales price of the diesel fuel and has not collected
3 the amount of tax from its buyer.

4 (7) A statement that the claimant has in its possession an
5 unexpired exemption certificate described in Section 60503 and
6 the claimant has no reason to believe any information in the
7 certificate is false.

8 (8) A statement that the amounts claimed have not been
9 previously refunded to the claimant and that there are no other
10 claims outstanding for the amounts included in the current claim.

11 (d) Each claim for refund under this section shall be made in a
12 form prescribed by the board and shall be for an amount of not
13 less than two hundred dollars (\$200) and for a period of not less
14 than one week.

15 (e) This section shall become operative on January 1 of the
16 fiscal year following the fiscal year in which, as determined by the
17 board, the aggregate number of gallons of Category 1 and
18 Category 2 fuels for which the tax incentives have been claimed
19 pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal
20 to or exceeds one billion gallons.

21 SEC. 72. Section 60523 of the Revenue and Taxation Code is
22 amended to read:

23 60523. The claim shall be in writing, ~~and~~ shall state the specific
24 grounds upon which it is founded, ~~and shall identify the fuel as a~~
25 ~~Category 1, Category 2, or Category 3 fuel and the number of~~
26 ~~gallons and the amount of tax claimed for each category of fuel~~
27 ~~covered by the claim.~~

28 This section shall be repealed on January 1 of the fiscal year
29 following the fiscal year in which, as determined by the board, the
30 aggregate number of gallons of Category 1 and Category 2 fuels
31 for which the tax incentives have been claimed pursuant to Sections
32 7360.1, 7360.2, 60050.2, and 60050.3 is equal to or exceeds one
33 billion gallons.

34 SEC. 73. Section 60523 is added to the Revenue and Taxation
35 Code, to read:

36 60523. (a) The claim shall be in writing and shall state the
37 specific grounds upon which it is founded.

38 (b) This section shall become operative on January 1 of the
39 fiscal year following the fiscal year in which, as determined by the
40 board, the aggregate number of gallons of Category 1 and

1 *Category 2 fuels for which the tax incentives have been claimed*
2 *pursuant to Sections 7360.1, 7360.2, 60050.2, and 60050.3 is equal*
3 *to or exceeds one billion gallons.*

4 *SEC. 74. The State Board of Equalization shall provide written*
5 *notification to the Legislature, the Director of Finance, and the*
6 *Legislative Counsel if, and when, the board determines that the*
7 *aggregate number of gallons of Category 1 fuels, as defined in*
8 *Sections 7352 and 60049.5 of the Revenue and Taxation Code,*
9 *and Category 2 fuels, as defined in Sections 7353 and 60049.6 of*
10 *the Revenue and Taxation Code, for which the tax incentives have*
11 *been claimed pursuant to Sections 7360.1, 7360.2, 60050.2, and*
12 *60050.3 of the Revenue and Taxation Code, is equal to or exceeds*
13 *one billion gallons.*

14 *SEC. 75. This act provides for a tax levy within the meaning*
15 *of Article IV of the Constitution and shall go into immediate effect.*

16 ~~SECTION 1. Section 8651.1 is added to the Revenue and~~
17 ~~Taxation Code, to read:~~

18 ~~8651.1. (a) Notwithstanding any other law, on and after~~
19 ~~January 1, 2008, this chapter shall not apply to the use of Category~~
20 ~~1 fuel.~~

21 ~~(b) For purposes of this section, "Category 1 fuel" means fuel~~
22 ~~that contains 33 percent or less of the grams carbon dioxide~~
23 ~~equivalent per mile traveled of gasoline, as defined by the Low~~
24 ~~Carbon Fuel Standard, that will be established and adopted by the~~
25 ~~California Air Resources Board.~~

26 ~~SEC. 2. Section 8651.2 is added to the Revenue and Taxation~~
27 ~~Code, to read:~~

28 ~~8651.2. (a) Notwithstanding Section 8651, on and after January~~
29 ~~1, 2008, an excise tax imposed on the use of Category 2 fuel, as~~
30 ~~defined in subdivision (b), shall be one-half the rate prescribed by~~
31 ~~Section 8651 for each gallon of that fuel used.~~

32 ~~(b) For purposes of this section, "Category 2 fuel" means fuel~~
33 ~~that contains between 33 percent and 66 percent of the grams~~
34 ~~carbon dioxide equivalent per mile traveled of gasoline, as defined~~
35 ~~by the Low Carbon Fuel Standard, that will be established and~~
36 ~~adopted by the California Air Resources Board.~~

37 ~~(c) If any person or entity is exempt or partially exempt from~~
38 ~~the federal fuel tax at the time of a reduction, the person or entity~~
39 ~~shall continue to be exempt under this section.~~

1 ~~(d) All references in this code to Section 8651 shall be deemed,~~
2 ~~with respect to the rate imposed upon Category 2 fuel, to also refer~~
3 ~~to this section.~~

4 ~~SEC. 3. Section 8651.3 is added to the Revenue and Taxation~~
5 ~~Code, to read:~~

6 ~~8651.3. (a) In addition to the tax imposed by Section 8651, or~~
7 ~~any other applicable provision of this chapter, a tax is hereby~~
8 ~~imposed on the use of Category 3 fuel at a rate determined as~~
9 ~~prescribed in subdivision (c).~~

10 ~~(b) For purposes of this section, "Category 3 fuel" means fuel~~
11 ~~that is neither Category 1 fuel, as defined in subdivision (b) of~~
12 ~~Section 8651.1, nor Category 2 fuel, as defined in subdivision (b)~~
13 ~~of Section 8651.2.~~

14 ~~(c) (1) On and after January 1, 2008, but before January 1,~~
15 ~~2009, the tax rate imposed on the use of Category 3 fuel pursuant~~
16 ~~to subdivision (a) shall be twenty-seven cents (\$0.27) per each~~
17 ~~gallon of that fuel used.~~

18 ~~(2) On and after January 1, 2009, the rate set forth in paragraph~~
19 ~~(1) shall be increased or decreased by the State Board of~~
20 ~~Equalization, as necessary, so that the total amount of revenues~~
21 ~~derived from that rate, as estimated on the basis of the revenues~~
22 ~~derived from the tax rate imposed on Category 3 fuel during the~~
23 ~~immediately preceding year, does not exceed the amount of revenue~~
24 ~~loss that resulted during the same year from the tax exemptions~~
25 ~~allowed under Sections 8651 and 8651.2 for Category 1 and 2 fuel.~~

26 ~~(d) If the federal fuel tax is reduced below the rate of fifteen~~
27 ~~cents (\$0.15) per gallon and federal financial allocations to this~~
28 ~~state for highway and exclusive public mass transit guideway~~
29 ~~purposes are reduced or eliminated correspondingly, the tax rate~~
30 ~~imposed by this section, on and after the date of the reduction,~~
31 ~~shall be increased by an amount so that the combined state and~~
32 ~~federal tax rate per gallon equals thirty-three cents (\$0.33).~~

33 ~~(e) The State Board of Equalization, in consultation with the~~
34 ~~California Energy Commission, shall prescribe rules and~~
35 ~~regulations to implement this section.~~

36 ~~SEC. 4. Section 60050.2 is added to the Revenue and Taxation~~
37 ~~Code, to read:~~

38 ~~60050.2. (a) Notwithstanding any other law, on and after~~
39 ~~January 1, 2008, this part shall not apply to the use of Category 1~~
40 ~~fuel.~~

~~(b) For purposes of this section, “Category 1 fuel” means diesel fuel that contains 33 percent or less of the grams carbon dioxide equivalent per mile traveled of gasoline, as defined by the Low Carbon Fuel Standard, that will be established and adopted by the California Air Resources Board.~~

~~SEC. 5. Section 60050.3 is added to the Revenue and Taxation Code, to read:~~

~~60050.3. (a) Notwithstanding Section 60050, on and after January 1, 2008, an excise tax imposed on the use of Category 2 fuel, as defined in subdivision (b), shall be one-half the rate prescribed by Section 60050 for each gallon of diesel fuel used.~~

~~(b) For purposes of this section, “Category 2 fuel” means diesel fuel that contains between 33 percent and 66 percent of the grams carbon dioxide equivalent per mile traveled of gasoline, as defined by the Low Carbon Fuel Standard, that will be established and adopted by the California Air Resources Board.~~

~~(c) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.~~

~~(d) All references in this code to Section 60050 shall be deemed, with respect to the rate imposed upon Category 2 fuel, to also refer to this section.~~

~~SEC. 6. Section 60050.4 is added to the Revenue and Taxation Code, to read:~~

~~60050.4. (a) In addition to the tax imposed by Section 60050, or any other applicable provision of this chapter, a tax is hereby imposed on the use of Category 3 fuel at a rate determined as prescribed in subdivision (c).~~

~~(b) For purposes of this section, “Category 3 fuel” means diesel fuel that is neither Category 1 fuel, as defined in subdivision (b) of Section 60050.2, nor Category 2 fuel, as defined in subdivision (b) of Section 60050.3.~~

~~(c) (1) On and after January 1, 2008, but before January 1, 2009, the tax rate imposed on the use of Category 3 fuel pursuant to subdivision (a) shall be twenty-seven cents (\$0.27) per each gallon of that fuel used.~~

~~(2) On and after January 1, 2009, the rate set forth in paragraph (1) shall be increased or decreased by the State Board of Equalization, as necessary, so that the total amount of revenues derived from that rate, as estimated on the basis of the revenues~~

1 derived from the tax rate imposed on Category 3 fuel during the
2 immediately preceding year, does not exceed the amount of revenue
3 loss that resulted during the same year from the tax exemptions
4 allowed under Sections 60050.2 and 60050.3 for Category 1 and
5 2 fuel.

6 (d) ~~If the federal fuel tax is reduced below the rate of fifteen~~
7 ~~cents (\$0.15) per gallon and federal financial allocations to this~~
8 ~~state for highway and exclusive public mass transit guideway~~
9 ~~purposes are reduced or eliminated correspondingly, the tax rate~~
10 ~~imposed by this section, on and after the date of the reduction,~~
11 ~~shall be increased by an amount so that the combined state and~~
12 ~~federal tax rate per gallon equals thirty-three cents (\$0.33).~~

13 (e) ~~The State Board of Equalization, in consultation with the~~
14 ~~California Energy Commission, shall prescribe rules and~~
15 ~~regulations to implement the provisions of this section.~~

16 SEC. 7. ~~The California Energy Commission shall oversee the~~
17 ~~tax incentive program established by Sections 1, 2, 3, 4, 5, and 6~~
18 ~~of this act, and shall annually report to the Legislature regarding~~
19 ~~the program. The report shall be posted on the commission's Web~~
20 ~~site and shall include all of the following information:~~

21 (a) ~~The effect of the tax incentive program on the consumption~~
22 ~~of gasoline by consumers.~~

23 (b) ~~Economic benefits or losses to the state as the result of the~~
24 ~~program.~~

25 (c) ~~Calculation of greenhouse gas emission reductions.~~

26 SEC. 8. ~~This act provides for a tax levy within the meaning of~~
27 ~~Article IV of the Constitution and shall go into immediate effect.~~